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## NOTICE

The undermentioned *Gazettes of India Extraordinary* were published upto the 27th December, 1957:—

Issue No.	No. and date	Issued by	Subject
141-A	No. 84-ITC(PN)/57, dated the 20th December, 1957.	Ministry of Commerce and Industry	Import Policy for Chrome splits during October, 1957 to March 1958.
	No. 85-ITC(PN)/57, dated the 20th December, 1957.	Ditto	Import Policy for 'Emery Grain and powder coarser than and including 300 mesh' during October, 1957 to March 1958.
142.	No. F.3(46)-NS/57, dated the 21st December, 1957.	Ministry of Finance	Amendments made in the Notification No. F.2(15)-7/NS/57, dated the 27th May, 1957.
	No. F.2(22)(i)-NS/57, dated the 21st December, 1957.	Ditto	Application for 15 Year Annuity Certificates will not be received with effect from the close of business on the 30th December, 1957.
	No. F.2(22)(ii)-NS/57, dated the 21st December, 1957.	Ditto	Issue of 15-Year Annuity Certificates—Second Series from 2nd January, 1958.
143	No. 27-CC/57, dated the 21st December, 1957.	Lok Sabha	Directions by the Speaker under the Rules of Procedure of Lok Sabha.
144	No. 86-ITC(PN)/57, dated the 21st December, 1957.	Ministry of Commerce and Industry	Import of flame-proof/explosion-proof motors.
	No. 88-ITC(PN)/57, dated the 21st December, 1957.	Ditto	Import policy for bicycle tyres and cycle rickshaw tyres during October 1957 to March 1958.
145	No. F.266-T/57, dated the 23rd December, 1957.	Lok Sabha Secretariat	The President prorogues the Lok Sabha.
146	No. 87-ITC(PN)/57, dated the 21st December, 1957.	Ministry of Commerce and Industry	Policy for the grant of Import Licences to established Importers in Jammu and Kashmir State during October 1957 to March 1958.
147	No. F.266-T/57, dated the 24th December, 1957.	Lok Sabha Secretariat	The President summons the Lok Sabha to meet on the 10th February 1958.
148	No. RS-1/7/57-L, dated the 26th December, 1957.	Rajya Sabha Secretariat	The President prorogues the Rajya Sabha.
149	No. 79-TG(42)/57, dated the 27th December, 1957.	Ministry of Commerce and Industry	Cancellation of certain notifications of the Ministry of Commerce and Industry (Department of Heavy Industries).

Copies of the *Gazette Extraordinary* mentioned above will be supplied on Indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of these *Gazettes*.

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## PART I—Section 1

**Notifications relating to Non-Statutory Rules, Regulations and Orders and Resolutions issued by the Ministries of the Government of India (other than the Ministry of Defence) and by the Supreme Court**

## OFFICE OF THE SECRETARY TO THE PRESIDENT

*New Delhi, the 27th December 1957*

No. 43-Pres./57.—The President is pleased to award the Police Medal for gallantry to the undermentioned officer of the Andhra Pradesh Police:—

Name of the Officer and rank.—Shri Kandla Sundar Raju, Police Constable, Rancherla Police Station, Kurnool East District, Andhra Pradesh.

Statement of Services for which the decoration has been awarded.—On the 18th April, 1957, a disastrous fire ravaged the village of Rancherla destroying several buildings and

over two hundred thatched houses. An elderly woman was trapped in one of the burning houses. Police Constable Kandala Sundar Raju courageously jumped into the house through a hole made in the wall, and at great risk to his life brought the woman to safety.

Constable Raju displayed conspicuous gallantry and commendable devotion to public service.

2. This award is made for gallantry under Rule 4(i) of the rules governing the award of the Police Medal and consequently carries with it the special allowance admissible to officers of and below the rank of Inspector of Police as provided in Rule 5.

C. S. VENKATACHAR, Secy.

## MINISTRY OF FINANCE

(Department of Economic Affairs)

*New Delhi, the 27th December 1957*

No. 3 (35)-F.1/57.—Statement of the Affairs of the Reserve Bank of India, as on the 20th December, 1957.

## BANKING DEPARTMENT

LIABILITIES	Rs.	ASSETS	Rs.
Capital paid up . . . . .	5,00,00,000	Notes . . . . .	18,57,75,000
Reserve Fund . . . . .	80,00,00,000	Rupee Coin . . . . .	9,08,000
National Agricultural Credit (Long-term Operations) Fund . . . . .	20,00,00,000	Subsidiary Coin . . . . .	2,72,000
National Agricultural Credit (Stabilisation) Fund . . . . .	2,00,00,000	Bills Purchased and Discounted :—	
Deposits :—		(a) Internal . . . . .	..
(a) Government		(b) External . . . . .	..
(1) Central Government . . . . .	64,87,41,000	(c) Government Treasury Bills . . . . .	6,40,49,000
(2) Other Governments . . . . .	8,16,44,000	Balances held abroad* . . . . .	22,38,25,000
(b) Banks . . . . .	74,44,22,000	Loans and Advances to Governments** . . . . .	36,39,61,000
(c) Others . . . . .	115,10,77,000	Other Loans and Advances† . . . . .	58,76,49,000
Bills Payable . . . . .	11,90,98,000	Investments . . . . .	246,33,90,000
Other Liabilities . . . . .	23,10,91,000	Other Assets . . . . .	15,62,44,000
<b>TOTAL</b> . . . . .	<b>404,60,73,000</b>	<b>TOTAL</b> . . . . .	<b>404,60,73,000</b>

\*Includes Cash and Short term Securities.

\*\*Includes temporary overdrafts to State Governments.

†The item 'Other Loans and Advances' includes Rs. 19,81,50,000/- advanced to scheduled banks against usance bills under Section 17(4) (c) of the Reserve Bank of India Act.

An Account pursuant to the Reserve Bank of India Act, 1934, for the week ended the 20th day of December, 1957.

## ISSUE DEPARTMENT

LIABILITIES	Rs.	Rs.	ASSETS	Rs.	Rs.
Notes held in the Banking Department . . . . .	18,57,73,000		A. Gold Coin and Bullion :—		
Notes in circulation . . . . .	1504,60,10,000		(a) Held in India . . . . .	117,76,03,000	
Total Notes issued . . . . .		1523,17,85,000	(b) Held outside India . . . . .	..	
			Foreign Securities . . . . .	280,19,43,000	
			Total of A . . . . .		397,95,46,000
			B. Rupee Coin . . . . .		132,93,23,000
			Government of India Rupee Securities . . . . .		992,29,16,000
			Internal Bills of Exchange and other Commercial paper . . . . .		..
Total Liabilities . . . . .		1523,17,85,000	Total Assets . . . . .		1523,17,85,000

Dated the 24th day of December 1957.

K. G. AMBEGAOKAR, Dy. Governor

A. BAKSI, Jt. Secy.

## MINISTRY OF TRANSPORT &amp; COMMUNICATION

(Posts &amp; Telegraphs)

New Delhi, the 24th December 1957

**No. 35/657-CL.**—The Central Government is pleased to declare the following post office holidays to be observed during the year 1958 throughout India, in addition to Sundays:—

- |  |                               |           |
|--|-------------------------------|-----------|
| (i) Bank Holiday . . . . .                                     | 1st January 1958 . . . . .    | Wednesday |
| (ii) Holi . . . . .  | 6th March, 1958 . . . . .     | Thursday  |
| (iii) Good Friday . . . . .                                    | 4th April 1958 . . . . .      | Friday    |
| (iv) Id-ul-Fitr . . . . .                                      | 21st April 1958 . . . . .     | Monday    |
| (v) Id-ul-Zuha . . . . .                                       | 28th June 1958 . . . . .      | Saturday  |
| (vi) Muharrum . . . . .  | 28th July 1958 . . . . .      | Monday    |
| (vii) Independence Day . . . . .                               | 15th August 1958 . . . . .    | Friday    |
| (viii) Janam Ashtami . . . . .                                 | 6th September 1958 . . . . .  | Saturday  |
| (ix) Miladun-Nabi (Birthday of the Prophet of Islam) . . . . . | 26th September 1958 . . . . . | Friday    |
| (x) Mahatma Gandhi's Birthday . . . . .                        | 2nd October 1958 . . . . .    | Thursday  |
| (xi) Dushra . . . . .  | 22nd October 1958 . . . . .   | Wednesday |
| (xii) Diwali . . . . .   | 11th November 1958 . . . . .  | Tuesday   |
| (xiii) Guru Nanak's Birthday . . . . .                         | 26th November 1958 . . . . .  | Wednesday |
| (xiv) Christmas Day . . . . .                                  | 25th December 1958 . . . . .  | Thursday  |

2. The following post Office holidays will be observed only by the post offices situated in the Circle(s) noted against each such holiday:—

- |                                       |                                |                                       |
|---------------------------------------|--------------------------------|---------------------------------------|
| (i) Pongal . . . . .                  | 14th January 1958 (Tuesday)    | Madras and Andhra                     |
| (ii) Shri Panchami . . . . .          | 24th January, 1958 . . . . .   | (Friday) Bengal                       |
| Shri Panchami . . . . .               | 25th January, 1958 . . . . .   | (Saturday) Bihar                      |
| (iii) Telugu New Mear's Day . . . . . | 21st March, 1958 . . . . .     | (Friday) Andhra.                      |
| (iv) Mahabir Jayanti . . . . .        | 2nd April 1958 . . . . .       | (Wednesday) Rajasthan.                |
| (v) Bohag Bihu . . . . .              | 14th April, 1958 . . . . .     | Monday, Assam.                        |
| (vi) Rath Jatra . . . . .             | 19th June, 1958 . . . . .      | (Thursday) Orissa.                    |
| (vii) Onam . . . . .                  | 27th August, 1958 . . . . .    | (Wednesday) Madras                    |
| (viii) Raksha Bandhan . . . . .       | 28th August, 1958 . . . . .    | Thursday Central                      |
| Raksha Bandhan . . . . .              | 29th August, 1958 . . . . .    | (Friday) U.P.                         |
| (ix) Ganesh Chaturthi . . . . .       | 16th September, 1958 . . . . . | (Tuesday) Bombay Central & Hyderabad. |

NOTE.—(1) The Indian Embassy Post Office, Khatmandu (Nepal) will observe Saturday as weekly post office holidays in lieu of Sundays.

(2) Indian Embassy Post Office, Khatmandu (Nepal) will observe the following four holidays as post office holidays in lieu of the four muslim holidays mentioned in paragraph 1 of the notification above. The dates of observance of these holidays will be the same as those notified by the Government of Nepal.

- (i) Jeth Dasehra,
- (ii) Deothan Ekasadi,
- (iii) Birthday of H.M. of King of Nepal; and
- (iv) Democracy Anniversary Day of Nepal

(3) The telegraph branch of combined offices will observe the holidays which are declared as telegraph holidays.

(4) No separate holiday is being granted in respect of the Republic Day and the four optional holidays viz Sheoratri, Baisakhi, Mahalaya, and Chhat, which fall on Sunday.

H. C. SHARMA, Under Secy.

## MINISTRY OF COMMERCE AND INDUSTRY

New Delhi, the 27th December 1957

No. 32-SSI(B)(3)/56.—In pursuance of Clause A of Bye Law 28 of the Registered Bye Laws of the Delhi Garments Co-operative Industrial Society, Ltd., New Delhi, the Central Government hereby direct that the name of Shri J. S. Chauhan, Deputy Registrar of Co-operatives (Delhi Administration) Delhi in the Ministry of Commerce and Industry Notification No. 32-SSI(B)(3)/56, dated the 10th October, 1957, shall be deleted and the existing Serial Nos. 7, 8, 9, 10, 11, 12, 13, and 14 therein shall be renumbered as 6, 7, 8, 9, 10, 11, 12 and 13 respectively.

New Delhi, the 4th January 1958

No. 53-S.S.I(A)(12)/54.—In para I of the Ministry of Commerce and Industry Resolution No. 53-S.S.I(A)(12)/54, dated the 1st August, 1957 under which the Small Scale Industries Board was reconstituted, the following amendment shall be made, namely:—

Against S. No. (2) for the existing entry "Shri Satish Chandra, I.C.S., Development Commissioner for Small Scale Industries"

Substitute Syed Ashfaq Hussain, Development Commissioner for Small Scale Industries"

N S VAIDYANATHAN, Under Secy

## TREATIES

New Delhi, the 24th December 1957

No. 25-EP.II(2)/55/6198.—In pursuance of Section 2 of the Arbitration (Protocol and Convention) Act, 1937, (6 of 1937), the Central Government being satisfied that reciprocal provisions as stated in that section have been made by the President of the Irish Republic as respects the Republic of Ireland, hereby declares the President of Irish Republic to be party to the Convention set forth in the Second Schedule to the aforesaid Act and the Republic of Ireland to be territory to which the convention applies

K B LALL, Jt Secy

## MINISTRY OF FOOD AND AGRICULTURE

(Department of Agriculture)

(I.C.A.R.)

(Coordination Section)

New Delhi, the 16th December 1957

No. F.33(2)/57-CDN.—Under Regulation 4 read with Regulation 2(v) of the Regulations of the Standing Finance Committee of the Indian Council of Agricultural Research, the President of the Council, has been pleased to appoint Dr. E. S. Narayanan, Principal, Central College of Agriculture New Delhi as a member of the Standing Finance Committee vice Dr. S. Krishnamurti for the period ending the 5th June, 1958 and until such time as his successor is nominated thereon

R D MOHINDRA, Under Secy

## MINISTRY OF EDUCATION &amp; SCIENTIFIC RESEARCH

New Delhi, the 30th December 1957

No. F.15-1/57-Pak.—In exercise of the provisions contained in para 7(1) of the Government of India Notification No. RHC/11(5)/52, dated the 5th September, 1957, it is hereby notified that on transfer of Shri L. R. Sethi, Joint Secretary, Ministry of Education Dr. A. M. D. Rozarib, Joint Educational Adviser, has been nominated to work as a representative of the Ministry of Education on the Board of Administration, Deshbandhu College, Kalkaji, New Delhi. Shri K. G. Sayidan will continue to exercise the functions of the Chairman of the Board. The powers delegated by him to Shri L. R. Sethi as Chairman of the Board in this Ministry's Notification No. F.15/1/57 Pak dated the 29th June, 1957, have been withdrawn for the present

(Department of Education)

New Delhi, the 23rd December 1957

No. F.12-25/57-D.2.—In continuation of Ministry of Education and Scientific Research Resolution No. F-12-25/57 D.2 dated the 14th November, 1957, Kumari Maniben Vallabhkhai Patel, Member, Lok Sabha has been nominated on the Central Social Welfare Board as a member for a period of two years with effect from the 13th August, 1957—

2 ORDERED that this Resolution be published in the Gazette of India

3 ORDERED also that copy of this Resolution be communicated to all the Members of the Central Social Welfare Board, all the Ministries of the Government of India, all State Governments, Planning Commission, Cabinet Secretariat, Prime Minister's Secretariat, the Department of Parliamentary Affairs, the Accountant General, Central Revenues and the Press Information Bureau

R K BHAN,  
Deputy Educational Adviser

## MINISTRY OF LABOUR &amp; EMPLOYMENT

New Delhi, the 27th December 1957

No. LR10(49)/56.—The following decision of Shri Salim M. Merchant, Member, Labour Appellate Tribunal, in respect of a matter referred to him under section 6 of the Industrial Disputes (Banking Companies) Decision Act, 1955 (41 of 1955) by the order of the Government of India in the Ministry of Labour & Employment No. S.R.O. 3264, dated the 8th October, 1957, is hereby published for general information

BEFORE SHRI SALIM M. MERCHANT, MEMBER,  
LABOUR APPELLATE TRIBUNAL OF INDIA

REFERENCE No. 2/BANKS OF 1957

PARTIES

The U.P. Bank Employees Union, Varanasi,

AND

The Central Bank of India, Ltd.

Re Reference under Sub Section (1) of Section 6 of the Industrial Disputes (Banking Companies) Decision Act, 1955 (41 of 1955)

PRESENT

Shri Salim M. Merchant, Member, Labour Appellate Tribunal

Dated 30th November, 1957

Industry Banking State U.P.

APPEARANCES

Shri S. K. Ghosh, Assistant Secretary, All India Bank Employees Association with Shri B. K. Porwal, President and Shri P. N. Tewari, General Secretary, United Provinces Bank Employees Union and Shri Jai Govind Rai, Joint Secretary, Bengal Provincial Bank Employees Association—for the workmen

Counsel Shri B. K. Ghosh with Shri S. M. Basu instructed by Shri A. N. Chatterjee, Law Officer, Calcutta office of the Central Bank of India Ltd—for the Bank

DECISION

The Government of India, by Ministry of Labour & Employment, Order No. LR 10(49)/56, dated 8th October 1957, made in exercise of the powers conferred by sub section (1) of section 6 of the Industrial Disputes (Banking Companies) Decision Act, 1955 (41 of 1955), has been pleased to refer to me the following matters specified in the schedule annexed to the said order for my decision

SCHEDULE

(1) 'Whether for purposes of calculation of overtime, in accordance with the directions contained in paragraph 305 of the All India Industrial Tribunal (Bank Disputes) constituted by the notification of the Government of India in the Ministry of Labour No. S.R.O. 35, dated the 5th January, 1952, modified as aforesaid, each working day shall be taken as a distinct unit by itself and, if not, what should be the basic, of calculation of overtime

(2) 'Whether for payment for overtime work for every quarter hour beyond the first four quarter hours, after the initial half hour cushioning period, the additional 20 per cent. mentioned in paragraph 305 of the Award of the All-India Industrial Tribunal (Bank Disputes) constituted by the notification of the Government of India in the Ministry of Labour No. S.R.O. 35, dated the 5th January, 1952, modified as aforesaid, should be calculated on the overtime rate or the normal rate of wages'

On receipt of the order notices were issued on the parties to file their respective written statements. The Central Bank of India Ltd., (hereinafter referred to as the Bank) filed its written statement dated 28th October 1957 on 30th October 1957 and the U.P. Bank Employees Union (hereinafter referred to as the Union) filed its written statement, dated 6th November 1957 and the reference was heard on 21st November 1957

The two matters under reference involve the interpretation of the directions contained in para 305 of the Award of the All India Industrial Tribunal (Banking Disputes), as modified. Before adventing to the contentions of the parties, I shall first

refer to the directions contained in the Award of the All India Industrial Tribunal (Bank Disputes), which is popularly known as the Sastry Award, relating to overtime payment which have given rise to the present dispute

In chapter XIV of its award the Sastry Tribunal dealt with the question of "Working Hours and Overtime". After discussing the principles and precedents governing the fixation of hours of work and overtime, the Tribunal in para 304 stated certain conclusions on the basis of which it gave ten directions for the purposes of the present enquiry the relevant directions are Nos 1, 2, 3, 4, 5 and 9 which are as follows.—

- (1) For the clerical staff the actual hours of work exclusive of recess period on week days (excluding Saturdays) shall not exceed  $6\frac{1}{2}$  hours a day and 4 hours on Saturday
- (2) There shall be a recess for lunch which shall not be less than half an hour and not more than an hour for week days (excluding Saturdays) subject however to the requirements of any statutory provisions like Shops and Commercial Establishments Acts. Primarily it will be for the workmen to decide the actual length of the recess within the limits fixed by us and a majority decision of the workmen in any branch or establishment shall be adopted in case of a difference of opinion with the management
- (3) Banks can ask the workmen to do overtime work beyond these stated hours but subject to a maximum of 90 hours in any calendar year. With the consent of the workmen such period may extend to 120 hours. Normally such period of overtime work shall not exceed 2 hours on any working day without the written consent of the workmen, except in cases falling under clause (b)
- (4) For the first half an hour of overtime work there shall be no payment and for every completed 15 minutes work thereafter the workmen will be paid at the rates to be laid down by us
- (5) For the purpose of calculating payment of overtime work, each working day shall be taken as a distinct unit by itself
- (9) The provisions of the local Shops and Establishments Acts in force in various States which are or may be made applicable to banks subject to such exemptions as have been provided for therein shall of course, govern the parties to this reference. If the above directions as given by us come into conflict with any such provision or are repugnant to the same, then to the extent of such repugnancy or inconsistency with statutory provisions and to that extent only these directions must give place to the statutory provisions. Wherever it is open to employers to agree to give the workmen any benefit over and above what the statutory provisions compel them to do, these directions by us can legally be given and are within the powers of Industrial Tribunals. During the discussions before us though a vague reference was made to the provisions of Shops and Establishments Acts in general no such particular conflict or inconsistency was pointed out and argued. The range of discussions before us was such that both parties knew fairly well what the award on this point was more or less likely to be. We indicated sufficiently though not very precisely what the award was likely to be. Even then none of the parties could see any possible repugnancy or conflict with statutory provisions."

By para 305 of its Award the Sastry Tribunal prescribed the rate of payment for overtime work, and the operative portion thereof is as follows —

"We fix accordingly payment at the rate of one and a half times the emoluments made up of basic pay, special allowances provided for higher or special types of work officiating allowance and dearness allowance. It was contended before us that where the initial cushioning period of half an hour is exceeded and the first period of 15 minutes' overtime work there fore is completed, the payment should be made for the entire period inclusive of the initial cushioning of half an hour. We think that there should be no payment for work during the first half hour immediately after the close of the normal working hours for reasons stated above. Overtime payment will, therefore be only for every completed period of 15 minutes after the first half hour is over. With a view to discouraging excessive over work we direct that payment for overtime work for every quarter hour beyond the first four quarter hours, after the initial half hour cushioning period, shall be at the rate of one and a half times as aforesaid together with an additional 20 per cent for work during such extra period."

From the above directions it will be noticed that while the Award gives directions as to how overtime is to be calculated and what is to be the rate of payment for overtime work, it does not specifically lay down the method by which the payment for overtime work is to be calculated.

It is, therefore necessary first to state the method for calculation of payment for overtime work which the Bank has adopted. The Bank calculates the overtime payment by determining the normal hourly wage of the employee. For that purpose it first calculates the total number of working hours in a month on the basis of  $6\frac{1}{2}$  hours for each week day and 4 hours for each Saturday in the month. In so doing it excluded all the Sundays in the month as these are the weekly rest days on which no work is done. It, however, does not exclude other Holidays. It then divides the monthly emoluments of the Bank employee (made up of Basic Pay, special allowance officiating allowance and dearness allowances) by the total number of working hours computed as stated above, and the result is treated as the hourly wage of the employee. For the purpose of calculating overtime payment, after excluding the first half hour which is the cushioning period, for the balance of the overtime period upto one hour, payment is made at  $1\frac{1}{2}$  times the hourly wage and for the period exceeding one hour at  $1\frac{1}{2}$  times the hourly wage plus 20 per cent of the hourly wage. The Bank has explained this method of calculation of overtime payment by giving an illustration (See Ex F I). It has for illustration taken the case of an employee "A" whose monthly emoluments are Rs 150/- per month and the month selected is November, 1957. "A" works overtime for  $2\frac{1}{2}$  hours on the 1st of November, and the Bank's calculations for determining the payment for this overtime work is as follows —

As the month has 26 working days (excluding the 4 Sundays) out of which there are 21 week days and 5 Saturdays the Bank calculates the total number of working hours in the month as being  $21 \times 6\frac{1}{2}$  136 $\frac{1}{2}$  hours for 21 week days at  $6\frac{1}{2}$  hours for each week day, plus  $5 \times 4$  20 hours for 5 Saturdays at 4 hours for each Saturday. The total number of working hours in this month are thus computed at 156 $\frac{1}{2}$ .

For determining his hourly wage the Bank divides the monthly remuneration of Rs 150/- by 156 $\frac{1}{2}$  i.e.  $\frac{150}{156\frac{1}{2}} \approx \frac{2}{313}$ , which gives the hourly wages of Rs  $\frac{300}{313}$ . For the first half hour of the overtime work, no overtime payment is allowed as that is the cushioning period. For the next one hour he is paid at  $1\frac{1}{2}$  times the hourly wage i.e.  $\frac{300}{313} \times \frac{3}{2}$  1. 44 Np. For the second hour of overtime work the payment is calculated at  $1\frac{1}{2}$  times the hourly wage plus 20% of the hourly wage i.e. Rs 1. 44 Np plus  $(\frac{300}{313} \times \frac{20}{100} \approx \frac{60}{313})$  Rs 0. 19 Np i.e. Rs. 1. 63 Np. Thus the total overtime payment for the  $2\frac{1}{2}$  hours overtime work is calculated at Rs 3. 07 Np.

The Union disputed this method of calculation of overtime work and the question was taken up in conciliation by the Regional Labour Commissioner (Central) who appears to have referred the matter to the Government of India for clarification. The Government decided that the one day's wage should be worked out by dividing the monthly emoluments by the days of the calendar month inclusive of holidays and Sundays. It also decided that the additional 20% should be allowed on overtime wages and the Regional Labour Commissioner in communicating this decision of Government by his letter No B1(6)/56/8507/8 dated 22nd June, 1956, advised the Bank to dispose of cases of overtime work accordingly if any pending with it (Ex W A).

This interpretation of Government not being acceptable in its entirety to either party, has given rise to doubts and difficulties about the interpretation of the directions contained in para 305 of the Sastry Award relating to overtime payment, and the same has therefore now been referred to me for decision.

On the first issue, the Union's case is that as para 304(5) of the Sastry Award directs that, 'for the purpose of calculation payment for overtime work, each working day shall be taken as a unit by itself', the overtime allowance for each day i.e. on week days, Saturdays and Holidays, must be calculated separately. It contends that the expression, "each working day shall be taken as a unit by itself" does not refer to the period of overtime work done, and for that purpose it lays emphasis on the earlier words 'for purposes of calculating payment for overtime'. The Union claims that as under para 305 of the Award it is directed that for one hour's overtime (excluding the cushioning period) an employee will be paid  $1\frac{1}{2}$  times, the employee's one hour normal wage for workdays and Saturdays should be calculated separately on the basis of the different number of hours of work fixed for week days and for Saturdays. In other words it claims a higher rate of payment for equal period of overtime work done on Saturdays than on week days and the same presented by the Union before me mainly centered round this claim.

It further states that as the employees receive wages for the full month on the working or 26 days, the weekly rest days i.e. Sundays and other holidays will be excluded for calculation of overtime.

The Union has explained its contention by an illustration given in its written statement. It has taken the case of an employee "A" whose total emoluments are Rs 100 per month. It takes a month in which there are 4 weekly rest days and 1 holiday. Thus "A" receives Rs 100/- for working 22 days in that month and his one day's wage is worked out to (Rs 100 x 1/22) Rs 4 54 Np. Thus for the purposes of working out his one hour normal wage for a week day the Union divided the one day's wage of Rs 4 54 Np by 6½ which are the number of working hours prescribed for a week day and the result achieved is an hourly wage of about Rs 0 69 Np for week days. For Saturdays, however the one day's wage of Rs 4 54 Np is divided by 1 Np that being the number of hours of work prescribed for Saturdays. Thus for Saturdays the normal one hour wage is worked out to about Rs 1 13 Np which is higher than the one hour's wage for a week day. Thus for calculating the payment for overtime work the normal one hour's wage is multiplied by 1½ resulting in an overtime wage of Rs 1 03 Np for week days Rs 1 69 Np on Saturdays.

The Union has sought to support this contention by referring to the directions contained in section 8 of the U P Shops and Commercial Establishments Act, 1947 which contains the following directions for calculating of overtime—

"Any person employed on overtime shall be entitled to remuneration for such overtime work at twice the rate of his normal remuneration calculated by the hour

*Explanation*—For the purpose of calculating the normal hourly wage the day shall be reckoned as consisting of 8 hours work"

Rule 4 framed under the U P Shops and Establishments Act, which is entitled "Overtime" provides that "For the purposes of Section 8 normal remuneration by the hour shall be calculated in the following manner—

Ordinary rate of wages per hour

Persons employed	If employed on daily wages	If employed on monthly wages
1. Adults	1/8th of the amount of daily wages	1/20 8th of the amount of monthly wages

The Union states that as the Sastry Tribunal has directed by para 304(3) that banks can ask the workmen to do overtime work beyond 6½ hours on week days and 4 hours on Saturday as fixed by para 304(1) and as under para 301(5) the direction is that for the purpose of calculating payment for overtime work, each working day shall be taken as a distinct unit by itself, the provisions of the explanation under section 8 of the U P Shops and Establishment Act, 1947 where there is mention of 8 hours should be substituted by the words, "consisting of 6½ hours on week days and 4 hours on Saturdays by treating each day as a distinct unit". It has also stated that by an amendment to the U P Shops and Establishments Act, 1947, made subsequent to the publication of the Sastry Award as modified, the hours in Banking Establishments in that State have been fixed at 6½ hours on week days and 4 hours on Saturdays but this amendment was not made available at the hearing.

Briefly put the contention of the Union is that the normal hourly rate for week days should be calculated on the basis of 6½ hours of work and for Saturdays the normal working hours should be fixed on the basis of 4 hours of work. This results in their being different normal hourly rates for week days and Saturdays, the rate being higher for Saturdays than on any week day because of the lesser number of hours of work fixed for Saturdays.

The Bank's case on the first item in reference is that the direction under para 304(5) of the Sastry Award that "for the purpose of calculating payment of overtime work each working day should be taken as a distinct unit by itself", was given not for the purposes of laying down any principle as to the mode or method by which the hourly emoluments of an employee were to be calculated, but only for the purpose of assessing the period that is to say the number of hours or part thereof for which overtime shall be paid to an employee. It has contended (See para 3 of its written statement) that the hours of work prescribed under the Sastry Award are 6½ hours for each week day and 4 hours for Saturdays and the said direction was given only for the purpose of making it clear that the overtime period worked for any particular day alone was to be considered and paid for regardless of the employees previous or subsequent absence or any work under time that is to say for less than the prescribed numbers of hours. Therefore in assessing the period for which overtime should be paid each day has to be taken as a distinct unit so that if the same is a week day the overtime allowance would be paid for work done beyond 6½ hours after excluding the lunch interval and the cushioning period of half an hour and if the same is a Saturday overtime should be paid for work done beyond 4 hours excluding the lunch interval and the cushioning period of half hour allowed by the Sastry Award. In that connection it has pointed out that for the purpose of calculating the period for which overtime should be paid, whether a day, a week or more should be taken as a unit was fully canvassed before

the Sastry Tribunal. It was pointed out to the Sastry Tribunal as well as the Labour Appellate Tribunal that if an employee finished his work before the normal closing hour, he was permitted to go early and this was established by the production of attendance registers. The Banks had then been contended that in the case of employees who had been permitted to leave work under time the period of under time should be set off against period of overtime, and that for the calculation of overtime each work should be taken as a unit, so as to enable the Banks to set off the aggregate period of under time during a week against the aggregate period of overtime worked during a week. This contention was repelled by the Sastry Tribunal directing that each working day should be taken as a unit by itself so that in calculating the period of overtime any period of under time of which the employee may have availed himself could not be taken into consideration. The Bank has argued that this interpretation of the direction contained in para 304(5) of the Sastry Award is supported by the following observation in para 189 of the Labour Appellate Tribunal's decision—

"It is necessary that a major part of a day's work in a bank must be completed that day. Unless this is done the next day's work cannot commence punctually. In these circumstances the employees in a bank cannot expect to down pens on the stroke that is on the expiry of the normal working hours. They must go on for sometime before they can complete the work of the day. There is a compensation to the employees in that if on a particular day an employee finishes his work before the normal closing hour, he is permitted to leave the Bank's premises, and, during the course of the hearing before us we were shown registers containing the signatures of the employees concerned showing that this opportunity was availed of. It was for this reason that before the Sastry Tribunal the banks pressed that the period of overtime work done should be reckoned on the week and not on the day as the unit."

The Bank has therefore, contended that the Sastry Tribunal has not in terms laid down the method by which an employee's emoluments per hour could be calculated and that the directions in para 304(5) has reference only to the period of hours of work and no further. It has, therefore, urged that the method adopted by the Bank is the correct one and the same is borne out by the directions contained in the various Shops and Establishment Acts.

The main question under the item 1 of the reference is with regard to the interpretation to be put on the directions contained in para 305 read with para 304(5) of the Award of the Sastry Tribunal as modified and in deciding this question I have not only considered the submissions of the parties as set out in their respective written statements but have also heard their representatives in support of their respective submissions.

I am of the opinion that the interpretation put by the Union as stated above is not the correct one as it leads to the anomalous position of their being different hourly rates of wages for week days and Saturdays. In fact before me the Union's whole attempt appeared to be to get a higher rate of overtime payment for overtime work done on Saturdays than for equal period of overtime work done on week days. I think that such an anomalous result was never contemplated by the Sastry Tribunal. Though the Union has in its written statement stated that the Tribunal intended to fix a higher rate of payment for overtime worked on Saturdays than on week days it was not able to, point out any passage in the Award where any such intention was indicated. In fact the Sastry Award has laid down in para 304(3) that normally the period of overtime work shall not exceed 2 hours on any working day, without the written consent of the workmen, except in cases falling under para 304(6) which relates to work done on public holidays declared as such for half yearly or yearly closing of bank accounts. It will thus be seen that the Sastry Award has prescribed the same limit, subject to the consent of the workmen, for overtime work to be done on week days and on Saturdays. This shows that the intention of the Tribunal was not to make any distinction in the rate of payment for overtime work done on a week day and a Saturday. I am also not satisfied that the provisions of the U P Shops Establishment Act and its Rules to which my attention was drawn by the Union supports its contention. In my opinion the direction contained in para 304(5) that "each working day should be taken as a unit by itself", has reference to the overtime work done on any particular day and, it means that if an employee has done under time work on any day in the week that would not be set off against the overtime work he may have done on other days in the week. It also means that the calculation of the rate of payment for overtime work is to be done on the basis of overtime work done on each day and that the overtime work done on other days in the week are not to be added as otherwise it would result in the higher rate of overtime payment on the basis of 20 per cent more provided for work done beyond the first hour of overtime work, after excluding the first half hour of cushioning period, becoming applicable for overtime work done on some other days of the week which may not have exceeded one hour of overtime.

The Sastry Tribunal, as I have pointed out earlier, has not prescribed the method by which the payment of overtime is to be worked out. Though paragraph 301(5) directs that for the purposes of calculating payment of overtime work each working day is to be taken as a unit by itself, by paragraph 305 the overtime work has to be reckoned in terms of hourly periods. This makes necessary for the normal hourly rate of wages having to be worked out. As I am of the opinion that the hourly rate of wages of a monthly paid employee cannot be different for a week day than for a Saturday, I would agree with the Bank's method of determining the normal hourly rate of wages except where it excludes only the weekly rest days (Sundays) for the purposes of determining the total number of working hours in the month. The Bank stated that even if there are any Bank Holidays in a month those would not be excluded for the purposes of determining the total number of working hours in the month. I think in doing the Bank is not adopting a consistent attitude. If Sundays are to be excluded, as they are in fact excluded, in calculating the total number of working hours in the month, equally well Bank Holidays on which the employees do not work should also be excluded.

I would therefore hold on the first issue that the Bank's method of calculation for payment of overtime work is consistent with the direction contained in paragraph 305 read with the directions in para 301(5) of the Award except that in calculating the total working hours in the month, not only Sundays but other Bank holidays in the month should also be excluded.

*Issue No 2*—"Whether for payment for overtime work for every quarter hour beyond the first four quarter hours after the initial half hour cushioning period, the additional 20 per cent mentioned in paragraph 305 of the Award of the all India Industrial Tribunal (Bank Disputes) constituted by the Notification of the Government of India in the Ministry of Labour No S & O 35 dated the 5th January, 1952, modified as aforesaid, should be calculated on the overtime rate on the normal rate of wages."

I have already reproduced the relevant portion of the directions contained in paragraph 305 of the award. The controversy between the parties centres round the interpretation to be put on the last sentence of that paragraph which is as follows—

"With a view to discouraging excessive over work we direct that payment for overtime work for every quarter hour beyond the first four quarter hours, after the initial half hour cushioning period, shall be at the rate of one and a half times as aforesaid together with an additional 20 per cent for work done such extra period."

The Union has argued that the additional 20 per cent should be on the overtime wages and for that purpose it has relied upon the direction contained on this point in the letter dated 22nd June 1956 addressed to the Bank by the Regional Labour Commissioner, to which I have referred earlier. In that letter it was stated that "the additional 20 per cent should be allowed on overtime wages."

The Bank in its written statement however contends that the wording of the direction in para 305 indicates that the payment for overtime work beyond the cushioning period and the first hour, should be not merely at the rate of 150 per cent as provided for the first hour of overtime, but at the rate of 170 per cent during each quarter hour after the first hour. The yard stick prescribed for calculating overtime is the "emoluments" and just as the normal overtime *viz* 150 per cent (1½ times) has reference to the "emoluments", the additional 20 per cent necessarily has reference to the "emoluments" only. It has, therefore, contended that there is no warrant for the contention that the additional 20 per cent allowed, should be calculated on the overtime rate and not on the emoluments of the employee.

In my opinion this interpretation of the Bank is correct. What the Sastry Tribunal intended to do was to discourage excessive overtime work by prescribing a higher rate of payment for every quarter hour of overtime work beyond the first one hour of overtime work excluding the cushioning period of the first half hour. The higher rate is "at the rate of one and a half times as aforesaid together with an additional 20 per cent for work during such extra period." The words "an additional 20 per cent" in my opinion means 20 per cent in addition to the rate of one and a half times *i.e.* 150 per cent of the normal emoluments and not in addition to the overtime wage. This would mean that for the extra period the payment is to be made at 170 per cent of the normal emoluments. The terms "together with" and "additional" make this clear. If the Award had intended to give 20 per cent on the overtime payment, it would have used some such expression

like "20 per cent more on the overtime payment." The Award has not done so, but on the contrary has used the expressions together with an additional 20 per cent", which can only mean 20 per cent in addition to the 150 per cent *i.e.* 170 per cent of the normal emoluments and not 20 per cent on the overtime wage. I therefore hold that the interpretation of the Bank on this point is correct.

This decision is submitted to Government. No order as to costs.

(Sd) SALIM M. MERCHANT,  
Member, Labour Appellate Tribunal

A. L. HANDA, Under Secy.

#### RESOLUTION

New Delhi, the 26th December 1957

No. WB-7(2)—In pursuance of the recommendation contained in para 25 of chapter XXVII of the Second Five Year Plan regarding the establishment of tripartite Wage Boards for individual industries the Government of India have set up a Central Wage Board for the sugar industry.

2. The composition of the Board will be as follows—

##### Chairman

Shri Bind Basni Prasad

##### Independent Members

1. Shri H. C. Dasappa, M.P.

2. Dr. P. S. Loknathan

##### Members Representing Employers

1. Shri Gulabchand Hirachand

2. Shri R. P. Nevatia

##### Members Representing Workers

1. Shri Kashi Nath Pandey, M.P.

2. Shri Gangadhar J. Ogale

The following will be the terms of reference of the Board—

(a) to determine the categories of employees (manual, clerical, supervisory, etc.) who should be brought within the scope of the proposed wage fixation,

(b) to work out a wage structure based on the principles of fair wages as set forth in the report of the Committee on Fair Wages,

*Explanation*—In evolving a wage structure, the Board should in addition to the considerations relating to fair wages, also take into account—

(i) the needs of the industry in a developing economy;

(ii) the special features of the sugar industry;

(iii) the requirements of social justice, and

(iv) the need for adjusting wage differentials in such a manner as to provide incentives to workers for advancing their skill;

(c) bear in mind the desirability of extending the system of payment by results,

*Explanation*—In applying the system of payment by results the Board shall keep in view the need for fixing a minimum (fall back wage) and also to safeguard against over work and undue speed,

and

(d) to work out the principles that should govern the grant of bonus to workers in the sugar industry.

4. The headquarters of the Board will be located at Lucknow and all correspondence intended for the Board shall be addressed to the Chairman, Central Wage Board for the Sugar Industry, 12 A. P. Sen Road, Lucknow.

#### ORDER

ORDERED that a copy of the Resolution be communicated to—

(i) All State Governments and Union Territories

(ii) All Ministries of the Government of India and the Planning Commission

(iii) All India Organisations of Employers and Workers

(iv) The Indian Sugar Mills Association, Calcutta

ORDERED also that the Resolution be published in the Gazette of India for general information.

P. M. MENON, Secy.

